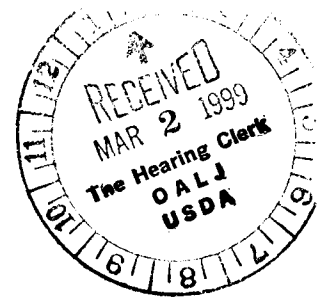


Genova

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) PACA Docket No. D-98-0001
)
Joe Genova & Associates, Inc.,)
)
Respondent)

DECISION WITHOUT HEARING BY REASON OF CONSENT

In this disciplinary proceeding under the Perishable Agricultural Commodities Act (7 U.S.C. § 499a et seq.) (PACA), a complaint was filed on October 3, 1997, alleging that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing to make full payment promptly to 30 sellers of the agreed purchase prices in the amount of \$2,036,310.23, for 253 lots of perishable agricultural commodities which Respondent purchased, received and accepted in interstate commerce or with the expectation of resale in interstate commerce during the period September 18, 1996, through January 13, 1997. Complainant requested that an order be issued revoking Respondent's PACA license. Respondent filed an answer denying the allegations of the complaint and asserting several affirmative defenses. A hearing date was set for January 5, 1999.

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Findings of Fact

1. Respondent, Joe Genova & Associates, Inc., is a corporation organized and existing under the laws of the State of California. Its business and mailing address is 22800 Savi Ranch Pkwy., Suite 204, Yorba Linda, California 92887.

2. At all times herein, Respondent was licensed under the provisions of the PACA. License number 840041 was issued to Respondent on October 13, 1983. This license has been renewed annually and is next subject to renewal on October 13, 1999.

3. During the period September 18, 1996, through January 13, 1997, Respondent failed to make full payment promptly to 30 sellers of the agreed purchase prices in the amount of \$2,036,310.23, for 253 lots of perishable agricultural commodities which Respondent purchased, received and accepted in interstate commerce or with the expectation of resale in interstate commerce. Respondent eventually paid this amount, but the payment was made after it was due.

4. As of the date of the hearing, January 5, 1999, Respondent was in full compliance with the PACA.

Conclusion

Although Respondent eventually paid all sums due and was in full compliance with the PACA as of the date of the hearing, January 5, 1999, Respondent's failures to make prompt payment, as documented in paragraph III of the complaint, constitute willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)), for which the order below is issued.


Order

Respondent is hereby assessed a civil penalty of \$60,000, which shall be paid in accordance with the terms of the Understanding With Respect to Civil Penalty and Payment Terms entered into with Complainant. In the event payment of the \$60,000 civil penalty is not made in accordance with the terms of the Understanding With Respect to Civil Penalty and Payment Terms, Respondent's PACA license will be suspended for 60 days, with the suspension automatically commencing upon notice to Respondent without further procedure.

This order shall become final upon issuance.

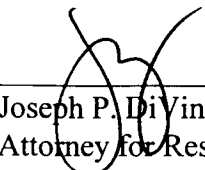
Copies hereof shall be served upon the parties.

Done at Washington, D.C.
this 1 of March, 1999

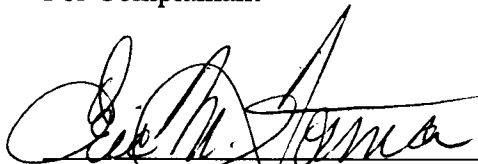

EDWIN S. BERNSTEIN
Acting Chief Administrative Law Judge

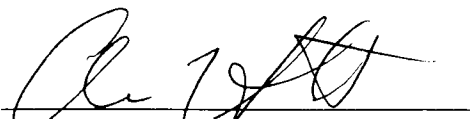
For Respondent


for Joe Genova & Associates, Inc.


Joseph P. Di Vincenzo, Esq.
Attorney for Respondent

For Complainant


Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service


Andrew Y. Stanton, Esq.
Attorney for Complainant